



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 6359-01
8 February 2002

MAJ [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Maj [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 February 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 10 August 2001, a copy of which is attached. They also considered your rebuttal letter dated 10 September 2001.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB, although they did agree with your point that the contested fitness report could be removed on grounds of noncompliance with administrative procedures, so you did not have to establish that the report evaluated you unfairly or inaccurately. They were not convinced that the reporting senior of record was not your proper reporting senior for that portion of the reporting period from 20 May to 30 August 2000. They observed that section I of the report did include comments, and they were unable to find that this section lacked any mandatory comments. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6359-01

IN REPLY REFER TO:
1610
MMER/PERB
10 AUG 2001

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF MAJOR
[REDACTED], USMC

Ref: (a) Major [REDACTED] D Form 149 of 18 May 01
(b) MCO P1610.7E w/Ch 1-2

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 8 August 2001 to consider Major [REDACTED]'s petition contained in reference (a). Removal of the fitness report for the period 990801 to 000830 (TR) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that Lieutenant Colonel [REDACTED] was not her Reporting Senior for the final three months of the reporting period. To support her appeal, the petitioner furnishes her own detailed statement, a copy of MCAGCC Special Order 023-00, a copy of an e-mail from the Acting Director of the Manpower Directorate at MCAGCC, a copy of the pertinent portion of T/O 7711, and copies of e-mail correspondence between the petitioner and [REDACTED].

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. The Board notes that in [REDACTED] e-mail at enclosure (4) to reference (a) she clearly indicated to the petitioner why she did not function as the Reporting Senior for the latter portion of the reporting period. Notwithstanding the T/O line numbers filled by the individuals involved, the manner in which any given staff is structured does not necessarily correlate to the fitness reporting chain. Any number of variables can necessitate a difference (i.e., seniority issues, commander's preferences, permanency of the supervisory levels). The latter would appear to be the key decision in this particular situation. In the petitioner's letter, she identifies Ms. [REDACTED] the "Acting Director" and that seems to be the

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[REDACTED] USMC

operative. In enclosure (4) to reference (a) even [REDACTED] herself highlights her temporary status as the reason she was not the Reporting Senior. Paragraph 2002 of reference (b) acknowledges the fact that differences may sometimes exist between the reporting chain and the actual chain of command. The pertinent passage of that paragraph is quoted verbatim: "The reporting chain will not always equate to the formal chain of command because of operating requirements and organizational structures."

b. Based on everything furnished with reference (a), it appears as though a conscious decision was made to retain Lieutenant Colonel [REDACTED] as the Reporting Senior. Among other reasons, this was obviously due to the change of billet circumstances and the petitioner's pending transfer. As the Staff Secretary, Lieutenant Colonel [REDACTED] was still in an advantageous position to monitor the petitioner's billet as Command Adjutant. As a final matter lending credence to the Reporting Senior issue, when Brigadier General [REDACTED] reviewed the report he recognized Lieutenant Colonel [REDACTED] as the rightful Reporting Senior since he made no comments questioning the validity of the report.

c. The petitioner fails to substantiate how the challenged report is anything less than a true and accurate portrayal of her performance during the period covered. In fact, in describing Lieutenant Colonel [REDACTED] Reporting Senior responsibilities, Ms. [REDACTED] indicated she ". . . found her to be fair and consistent in her dealings with all those for whom she was reporting senior."

d. As a final observation, the Board notes the petitioner's overall performance remained consistent with that reflected in the immediately preceding fitness report, also written by Lieutenant Colonel [REDACTED]. In comparing the preceding fitness report with the one under consideration, the petitioner dropped in one category (F2, developing subordinates), but rose in three others (D2, proficiency; F4, ensuring well-being of subordinates; and G1, PME). Since the petitioner is not challenging the prior report, her questioning now of the Reporting Senior's honesty and objectivity relative to the challenged report is unsubstantiated.

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- 4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Major [REDACTED] official military record.
- 5. The case is forwarded for final action.

[REDACTED]

Colonel, U.S. Marine Corps
Deputy Director
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps